REMARKS/ARGUMENTS

Claims 1 - 16 are pending in the present application.

Reconsideration is respectfully requested of the rejection of claims 1, 3-7 and 9-10 under 35 U.S.C. 102(e) as being anticipated by Law (2004/0039803) (hereinafter Law). In refusing to give weight to the "whereby" clause added to apparatus claim 1 and method claim 9, the Examiner cites MPEP 2111.04 as authority. However, the substance of MPEP 2111.04 is:

> The determination of whether each of these clauses is a limitation in a claim depends on the specific facts of the case. In *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a ""whereby" clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention."

In the present case, apparatus claim 1 recites:

> ...a first policy enforcement point (PEP) for identifying policy-enabled resources that are available and allocating requested policy-enabled resources to services.

The claim then specifies:

> ...a first resource policy layer (RPL) for provisioning, to a service being established, the policy-enabled resources allocated to that service.

The "whereby" clause then states that there is a:

> ...decoupling of policy management from the management of policy-enabled resources.

Clearly, this brings into focus the condition that is material to patentability and cannot be ignored in order to change the substance of the invention.

This is in keeping with applicants' invention which is directed to a mechanism to allow dynamic and trusted policy relation between a PEP and a PDP and a handover of the management

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of the part of the PEP to a different PDP. This mechanism is based
on the <u>separation or decoupling</u> of the management policy from the
policy-enabled resources. See Fig. 2 of applicants' drawings. In
Fig. 2, the resource policy layer (RPL) is a policy management
entity in charge of implementing the network service area domains.
It includes one or more PDPs. The network resource controller
(NRC) is a network resource management entity in charge, within its
domain, of locating the resources needed to implement a network
service on behalf of the RPL.

   Thus, the present invention provides a dynamic and trusted
policy relation between a PEP and a PDP. The NRC acts as the
trusted entity that initiates the PEP/PDP association. This allows
for more flexibility in order to adapt either different network
configurations e.g. mobile ad-hoc networking or changing
configurations in the management plane i.e. out source resource
control relationships in a multiple domain network. Not so with
Law.

   The multi PDP management of resources according to the
invention also provides multi PDP management or resources on a
single PEP by means of PDP virtualization. This eliminates the
need to negotiate and transfer policies between PEPs. The PEP also
retains control over the allocation of its resources to different
service instances thus alleviating the need for the PDP to choose
a specific resource. Again, not so with Law.

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The invention also provides minimization of the information transferred between the PEPs and the management entities. The NRC only needs to have an aggregated view of resources and the PEP is only interested in the resources indirectly identified by the NRC as participating in the network service implementation. This remains compatible with IETF requirements as well as existing protocols such as common open policy service (COPS). No so with Law.

Law discloses a <u>hierarchical</u> system (see para. 0057) where Law states:

> It is appreciated that the present invention provides a <u>hierarchical system to coordinate and enforce various policy rules</u> between the PSs 304a, 304b, the PEAs 308a, 308b, 308c and various network nodes 311a to 311e using a unified distributed approach. Since all policy-related information is required to pass through the PEAs 308a, 308b, 308c, network resources may be effectively monitored by supplying the policy-related information to the PSs 304a, 304b, to help them make appropriate decisions with respect to network resource management. Alternatively, the PEAs 308a, 308b, 308c may decide to issue COPS re-direct messages to those network nodes 311a, 311b, 311c soliciting new policy requests to transfer to network traffic to an area that is less congested. (Emphasis added.)

In this hierarchical system of Law, there is no decoupling of policy management from the management of policy-enabled resources.

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By the same token, the rejection of claims 2 and 11-16 under 35

U.S.C. 103(a) as being unpatentable over Law in view of Gibson et

al (2002/0085559) is respectfully traversed.

                        Respectfully submitted,

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In the event this paper is deemed not timely filed, the applicant hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 26-0090 along with any other additional fees which may be required with respect to this paper.

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature: _____*Jim Zegeer*_____   Date: _January 17, 2008_
          Jim Zegeer